

**California Regional Water Quality Control Board
Santa Ana Region**

June 24, 2005

Item: 9A

**Subject: Vessel Sewage Disposal Program – Tennis Estates Homeowners Association,
Huntington Harbour**

Background

On February 3, 2005, the Regional Board adopted Order No. R8-2005-011, requiring the implementation of specific provisions of the recommended Vessel Sewage Disposal Program for Newport Bay and Huntington Harbour. The approved Order requires vessel terminal owners/operators and the cities of Newport Beach and Huntington Beach to implement education and access requirements, operation and maintenance requirements, live-aboard vessel requirements and cost provisions. The Regional Board's Order was a follow up to the State Board's General Order No. 2004-0017-DWQ, which requires vessel terminal owner/operators in Newport Bay and Huntington Harbour, including the two Homeowners Associations (HOAs) in Huntington Harbour that are vessel terminals, to install and operate pumpout/dump station facilities. The Regional Board's Order includes provisions that the State Board did not have the legal authority to include in their General Order.

During the February 3 Regional Board Meeting, Mr. Joe Rosen, representing Tennis Estates Homeowners Association (HOA) in Huntington Harbour, requested that the State Board General Order be interpreted to allow the Tennis Estates HOA's tenants to use a public pumpout facility operated by the City of Huntington Beach (Provision A.3). Provision A.3 of the State Board's General Order states that:

"For facilities managed by a Homeowner's Association, where the association determines that it cannot justify the need based on a low number of boats with marine sanitation devices or the expense of installing a vessel waste pumpout facility, the Santa Ana Regional Board may authorize, subject to appropriate conditions, the Homeowner's Association to (1) employ a private pumpout service to pumpout the appropriate boats on a consistent and regular schedule in lieu of installing pumpout facilities or (2) contract with another marina located in Huntington Harbour, with an existing pumpout facility, to allow the Association's boat owners to use the marina's pumpout facility."

The language in the State Board Order is specific to the two HOAs in Huntington Harbour (there are no HOAs in Newport Bay). The State Board added option (2) at their public hearing on the order to address Mr. Rosen's concerns. The matter at issue is whether the HOAs should be allowed to use the City's pumpout facility in lieu of contracting with another marina or employing a private pumpout service, as is required by the State Board's General Order. In the March 4, 2005 Executive Officer's Report, staff recommended that Tennis Estates be authorized to employ Option (1) – employing a private pumpout service to pump out boats on a consistent and regular schedule.

Mr. Rosen has submitted the attached letter to the Regional Board, which modifies the position that Mr. Rosen has taken in the past. He proposes to place a sign in the Tennis Estates marina

with the name and phone number of a private pumpout service so that boat owners can contact the service. He indicates that he believes it is not necessary to contract with a pumpout service. He also notes that the City's pumpout facility is available to members of the HOA.

Staff believes that Mr. Rosen's proposal does not comply with either the letter or the intent of the State Board General Order. Providing the phone number of a pumpout service to residents does not ensure pumpout of boats "on a consistent and regular schedule," as is required by Option (1) of the State Board General Order. The availability of the City pumpout is not a "contract with another marina," as is required by Option (2) of the State Board General Order. Staff does not disagree that the City's pumpout facility is available for use; however, it is important to emphasize that in developing the vessel waste sewage disposal program, staff determined that given the number of vessels in Huntington Harbour, the existing number of pumpout facilities were insufficient to service all of the vessels in Huntington Harbour. If all of the vessel terminals owners/operators, HOAs, etc. relied solely upon the City's pumpout facility, that facility would become overwhelmed, further impairing water quality in Huntington Harbour. Therefore, in order to ensure that adequate pumpout facilities are available for use in Huntington Harbour, and to ensure the protection of water quality, staff continues to recommend that Tennis Estates Homeowner Association either install a pumpout facility or, as indicated above, utilize the option of employing a private pumpout service to pump out boats on a consistent and regular schedule.

OST	5/31
KRB	5/27
2005 MAY 25 AM 8:42	
DES	via mail 5/31
HAS	5/31

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Huntington Beach, CA 92649

May 20, 2005

Gerard J. Thibeault
California Regional Water Quality Control Board
Santa Ana Region
3737 Main Street, Suite 500
Riverside, California 92501-3348

Ref: Your letter dated March 29, 2005; Subj: Pumpout Facilities For Tennis Estates Homeowners Association (copy atch'd)

Dear Mr. Thibeault:

Thank you for the offer to attend the May 27, 2005, Regional Board's meeting to further explain Tennis Estates' position with regard to utilizing the existing pumpout facilities owned and operated by the City of Huntington Beach. Unfortunately, I currently have a medical problem which prevents me from accepting your offer; however, I have been in touch with the Regional Office and have advised that I will be available to attend the June meeting.

I feel that I have not properly presented Tennis Estates' position concerning the pumpout facilities. Our position does not reject the use of a private mobile pumping service. In fact some of our home owners already use the Royal Flush Pumpout Services periodically. The company does not require a contract for use of their services. All that is required is a phone call when their services are requested. I discussed this with Jeff Phelps, the owner of Royal Flush Pumpout Services, and we considered an alternative position of placing a sign in our marina with the name and phone number of the company visible to our boaters.

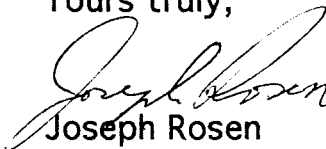
The point I need to make is that throughout Huntington Harbour the existing pumpout facilities have always been available to all of our boaters. Since the Regional Board is not restricting our use of these facilities and a contract is not required for the use of the pumpout facilities, forcing us to insist that Royal Flush Pumpout Services write a contract for us doesn't make sense. Even with a contract our boaters would not be restricted from using the City owned pumpout facility which is located at the Huntington

Harbour Yacht Club or any other facility made available to them. The City owned facility has been used in the past by some of our homeowners who are also members of the yacht club. Other pumpout facilities located in privately owned marinas have been used when they became more convenient.

Please be aware that we strongly support your efforts to keep our harbor clean. We have the greatest vested interest in your efforts since we live here. For this reason we believe that all of the facilities should be available to all of the boaters. The point is that we want boaters to use the pumpout facilities rather than dumping in the harbor. They are most likely to use the pumpout facility that is the most convenient to them.

If this matter can be resolved at our level I would be happy to discuss it further with you or any of your staff you designate. My phone number is 714-840-4575.

Yours truly,



Joseph Rosen

Attached: Referenced letter.

cc: Pavlova Vitale